

111TH CONGRESS  
1ST SESSION

# S. 1325

To amend the Internal Revenue Code of 1986 to permanently extend and modify the section 45 credit for refined coal from steel industry fuel, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 23, 2009

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to permanently extend and modify the section 45 credit for refined coal from steel industry fuel, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PERMANENT EXTENSION AND MODIFICATION**  
4 **OF SECTION 45 CREDIT FOR REFINED COAL**  
5 **FROM STEEL INDUSTRY FUEL.**

6 (a) CREDIT PERIOD.—

7 (1) IN GENERAL.—Subclause (II) of section  
8 45(e)(8)(D)(ii) of the Internal Revenue Code of

1       1986 (relating to modifications) is amended to read  
 2       as follows:

3                               “(II) CREDIT PERIOD.—In lieu  
 4                               of the 10-year period referred to in  
 5                               clauses (i) and (ii)(II) of subpara-  
 6                               graph (A), the credit period shall be  
 7                               the period beginning on the date that  
 8                               the facility first produces steel indus-  
 9                               try fuel that is sold to an unrelated  
 10                              person after the date of the enactment  
 11                              of this subclause.”.

12               (2) CONFORMING AMENDMENT.—Section  
 13       45(e)(8)(D) of such Code is amended by striking  
 14       clause (iii) and by redesignating clause (iv) as clause  
 15       (iii).

16       (b) EXTENSION OF PLACED-IN-SERVICE DATE.—  
 17       Subparagraph (A) of section 45(d)(8) of the Internal Rev-  
 18       enue Code of 1986 (defining refined coal production facil-  
 19       ity) is amended—

20               (1) by striking “(or any modification to a facil-  
 21       ity)”, and

22               (2) by striking “2010” and inserting “2011”.

23       (c) CLARIFICATIONS.—

24               (1) STEEL INDUSTRY FUEL.—Subclause (I) of  
 25       section 45(c)(7)(C)(i) of the Internal Revenue Code

1 of 1986 (defining steel industry fuel) is amended by  
2 inserting “or a blend of coal and petroleum coke”  
3 after “on coal”.

4 (2) OWNERSHIP INTEREST.—Section 45(d)(8)  
5 of such Code (defining refined coal production facil-  
6 ity) is amended by adding at the end the following  
7 new flush sentence:  
8 “With respect to a facility producing steel industry  
9 fuel, no person (including a ground lessor, customer,  
10 supplier, or technology licensor) shall be treated as  
11 having an ownership interest in the facility or as  
12 otherwise entitled to the credit allowable under sub-  
13 section (a) with respect to such facility if such per-  
14 son’s rent, license fee, or other entitlement to net  
15 payments from the owner of such facility is meas-  
16 ured by a fixed dollar amount or a fixed amount per  
17 ton, or otherwise determined without regard to the  
18 profit or loss of such facility.”.

19 (3) PRODUCTION AND SALE.—Subparagraph  
20 (D) of section 45(e)(8) of such Code (relating to  
21 special rule for steel industry fuel), as amended by  
22 subsection (a)(2), is amended by redesignating  
23 clause (iii) as clause (iv) and by inserting after  
24 clause (ii) the following new clause:

1                   “(iii) PRODUCTION AND SALE.—The  
 2                   owner of a facility producing steel industry  
 3                   fuel shall be treated as producing and sell-  
 4                   ing steel industry fuel where that owner  
 5                   manufactures such steel industry fuel from  
 6                   coal or a blend of coal and petroleum coke  
 7                   to which it has title. The sale of such steel  
 8                   industry fuel by the owner of the facility to  
 9                   a person who is not the owner of the facil-  
 10                  ity shall not fail to qualify as a sale to an  
 11                  unrelated person solely because such pur-  
 12                  chaser may also be a ground lessor, sup-  
 13                  plier, or customer.”.

14           (d) SPECIFIED CREDIT FOR PURPOSES OF ALTER-  
 15   NATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of  
 16   section 38(c)(4)(B)(iii) of the Internal Revenue Code of  
 17   1986 (relating to specified credits) is amended by insert-  
 18   ing “(in the case of a refined coal production facility pro-  
 19   ducing steel industry fuel, during the credit period set  
 20   forth in section 45(e)(8)(D)(ii)(II))” after “service”.

21           (e) EFFECTIVE DATES.—

22                   (1) IN GENERAL.—The amendments made by  
 23                   subsections (a), (b), and (d) shall take effect on the  
 24                   date of the enactment of this Act.

1           (2) CLARIFICATIONS.—The amendments made  
2       by subsection (c) shall take effect as if included in  
3       the amendments made by the Energy Improvement  
4       and Extension Act of 2008.

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